

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELLE NGUYEN, individually and on behalf)
of all others similarly situated,)
)

Plaintiff,) Case No.: 5:23-cv-04999-PCP

vs.) MANAGEMENT ORDER

BANK OF AMERICA, N.A.,) Judge: Hon. P. Casey Pitts

Defendant.)

)
)

Pursuant to Fed. R. Civ. P. 16(b) and this Court’s Standing Order for Civil Cases No. VI, Plaintiff Elle Nguyen, individually and on behalf of all others similarly situated, (“Plaintiff”) and Defendant Bank of America, N.A. (“Defendant”) (collectively, the “Parties”), respectfully move this Court to amend the current Case Management Order (Doc. 31). In support of the motion, the Parties state as follows:

1. On May 24, 2024, the Court entered the Case Management Order currently operative in this case. Doc 33. It provided for, *inter alia*, a deadline of September 13, 2024 for designation of expert witnesses and amendments to the pleadings.

2. To date, the Parties have expended substantial time and resources working toward a negotiated resolution of this case. To wit, On February 1, 2024, the Parties attended mediation with Hon. Jay C. Gandhi (Ret.) at the JAMS Dispute Resolution Center in New York, NY. In addition to the instant case, the parties also mediated three additional wage and hour cases, *Coluzzi et al. v. Bank of America*, N.A., Case No. 1:23-cv-06885-LGS (S.D.N.Y.); *Bolanos et al. v. Bank of America*, N.A., Case No. 3:23-cv-04027-JCS (N.D. Cal.); and *March v. Bank of America*, N.A., Case No. 2:23-cv-02360-EFM-TJJ (D. Kan.).

1 3. The Parties subsequently attended a second mediation with Jeffrey Fuchsman June
 2 10, 2024 in Los Angeles, CA.

3 4. Throughout this process, the Parties have been engaging in an ongoing, informal
 4 exchange of documents and information for purposes of settlement discussions.

5 5. To facilitate this informal process, Plaintiff has agreed to substantial extensions of
 6 time for Defendant to respond to written discovery requests. Specifically, Plaintiff
 7 initially served her First Set of Interrogatories, Requests for Production of Documents, and
 8 Requests for Admission on April 9, 2024, and by agreed extension, has not yet received responses.

9
 10 6. As a result, the Parties agree that September 13, 2024 deadline for designation of
 11 experts and amendment of pleadings set out Case Management Order are no longer feasible and
 12 should be modified, such that Plaintiff would have the benefit of initial discovery to determine
 13 whether there is a need to amend her pleadings, and whether expert testimony may be required.

14 7. These two proposed changes will not impact any of the other deadlines in the Case
 15 Management Order.

16 8. The Parties therefore request that the Court enter an Amended Case Management
 17 Order establishing the deadlines set out in the table below:

| Event | Current Deadline (Doc. 33) | Proposed Deadline |
|---|--|---|
| Completion of Initial ADR Session | June 10, 2024 | June 10, 2024 (no change) |
| Joinder and Other Amendments | September 13, 2024 | December 20, 2024. |
| Designation of Experts | September 13, 2024 | February 21, 2025 |
| Fact Discovery Cutoff | June 2, 2025 | June 2, 2025 (no change) |
| Expert Discovery Cutoff | June 2, 2025 | June 2, 2025 (no change) |
| Briefing Schedule for Class Certification | Motion by January 15, 2025 Opposition by February 14, 2025 Reply by March 7, 2025 Hearing on March 20, 2025 | Motion by January 15, 2025 Opposition by February 14, 2024 Reply by March 7, 2025 |

| | | | |
|---|---|---|---|
| | | Hearing on March 20, 2025 (no change) | |
| 1 | Briefing Schedule for Dispositive Motions | Motion by June 16, /2025* Opposition by July 16, 2025 Reply by August 6, /2025 Hearing on August 21, /2025 *The parties reserve the right to move for summary judgment earlier should they choose to do so. | Motion by June 16, /2025* Opposition by July 16, 2025 Reply by August 6, /2025 Hearing on August 21, /2025 *The parties reserve the right to move for summary judgment earlier should they choose to do so. (no change) |
| 2 | Pretrial Conference | November 18, 2025 | November 18, 2025 (no change) |
| 3 | Trial | January 26, 2026 | January 26, 2026 (no change) |

10 8. Pursuant to Fed. R. Civ. P. 16(b)(4), good cause exists to grant this Joint Motion as
 11 set out herein. Further, this request is made in good faith and not for the purpose of causing undue
 12 delay and will not result in prejudice to any party or require the postponement or adjustment of the
 13 trial setting.

14 9. A separate Stipulation and Proposed Order is attached hereto as Exhibit 1.

15 WHEREFORE, the Parties respectfully request this Court grant their Joint Motion to
 16 Amend Case Management Order as set forth herein.
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28

1 Dated: September 12, 2024
 2
 3
 4
 5
 6
 7
 8

HARTLEY LLP

3 /s/ George A. Hanson

4 Jason S. Hartley, Bar No. 192514
 5 Jason M. Lindner, Bar No. 211451
 6 101 West Broadway, Suite 820
 7 San Diego, CA 92101
 8 Telephone: 619-400-5822
 9 hartley@hartleylp.com
 10 lindner@hartleylp.com

11 **STUEVE SIEGEL HANSON LLP**

12 George A. Hanson (admitted *pro hac vice*)
 13 Alexander T. Ricke (admitted *pro hac vice*)
 14 Caleb J. Wagner (admitted *pro hac vice*)
 15 460 Nichols Road, Suite 200
 16 Kansas City, Missouri 64112
 17 Telephone: (816) 714-7100
 18 Facsimile: (816) 714-7101
 19 hanson@stuevesiegel.com
 20 ricke@stuevesiegel.com
 21 wagner@stuevesiegel.com

22 *Attorneys for Plaintiff*

23 Respectfully submitted,

24 **O'MELVENY & MYERS LLP**

25 /s/ Adam P. KohSweeney

26 Adam P. KohSweeney, Bar No.
 27 3056033
 28 akohsweeney@omm.com
 Chelsea E. Espiritu, Bar No. 346296
 cespirtu@omm.com
 Two Embarcadero Center
 28th Floor
 San Francisco, California 94111-3823
 Telephone: (415) 984 8700
 Facsimile: (415) 984 8701

29 *Attorneys for Defendant*